

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CEA No. 31 of 2007

Date of decision 19. 11 .2007

Commissioner of Central Excise ... Appellant

Versus

M/s Pooja Forge Ltd. and another .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr. Sanjeev Kaushik, Advocate for the appellant

M.M.Kumar, J.

This appeal filed under Section 35 G of the Central Excise Act, 1944 is directed against the order dated 3.1.2006 (Annexure P.3) passed by the Custom, Excise and Service Tax Appellate Tribunal, New Delhi holding that the assessee- respondent had two units and the capital goods were moved between those two units of the assessee. It has further been found that the capital goods were used in the manufacturing of the same final product and the case did not involve any disposal or alienation of modvated capital goods which would warrant denial of modvat credit. The Tribunal has also held that the imposition of penalties were not justified.

After hearing learned counsel at some length, we find that no substantial question of law would arise for determination of this Court because these are pure findings of facts. As to whether the assessee-respondent had two units of one entity or there two different entities is necessarily a question of fact which is further fortified from the fact that only one registration has been made. Had there been two units then the assessee would have been compelled for registration of both independently.

Therefore, there is no merit in the appeal and the same is accordingly dismissed.

(M.M.Kumar)
Judge

19.11.2007
okg

(Ajay Kumar Mittal)
Judge

CM No. 5782 and 5783 CII of 2007 in
CEA 31 of 2007

Present: Mr. Sanjeev Kaushik, Advocate for the applicant.

For the reasons stated in Civil Misc. No. 5782 CII of 2007 the same is allowed and the delay of 141 days in refiling the appeal is condoned.

As the main appeal itself has been disposed of on merits, no orders are required to be passed in C.M. No. 5783 CII of 2007 seeking condonation of 7 days delay in filing the appeal.

(M.M.Kumar)
Judge

(Ajay Kumar Mittal)
Judge

19.11.2007
okg